



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

OCT 21 2004

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Konstantin G. Theofilos, President
High Standards Coalition, Inc.
1428 Fox Place
South Plainfield, New Jersey 07080

Subject: Return of Application for Technical Assistance Grant (TAG) for Cornell-Dubilier Electronics, Inc. Site

Dear Mr. Theofilos:

This letter is a follow-up to the January 20, 2004 letter (copy enclosed) from Carol Hemington, TAG Coordinator, EPA Region 2. As described in that letter, in accordance with the regulations governing TAGs, the above-referenced application was to be returned to you if required information was not received by EPA within 90 days of the date of Ms. Hemington's letter to you. We did not receive that information, so I am returning the application to you; it is enclosed.

EPA will now proceed to readvertise the fact that a TAG is available for the Cornell-Dubilier Electronics, Inc. site, and the award process will begin again. If your group is still interested in a TAG for this site, a new letter of intent should be submitted to EPA after the advertisement appears.

If you have any questions, please call Ms. Hemington at (212) 637-3420.

Sincerely,

Roch Baamonde, Chief
Grants and Contracts Management Branch

Enclosures

299044



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P. Mannino

JAN 20 2004

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Konstantin G. Theofilos, President
High Standards Coalition, Inc.
1428 Fox Place
South Plainfield, New Jersey 07080

Subject: Application for Superfund Technical Assistance Grant for Cornell-Dubilier Electronics, Inc. Site

Dear Mr. Theofilos:

The EPA Region 2 Technical Assistance Grant (TAG) Team has reviewed the September 11, 2003 application for a Technical Assistance Grant for the Cornell-Dubilier Electronics, Inc. Superfund site, that was submitted by the High Standards Coalition, Inc. (HSC). Based on our review of the application, members of the Region 2 TAG Team have identified several items for which additional information or clarification is necessary in order to be able to complete the processing of the application. These items are as follows:

1. Incorporation/Eligibility Issues

a. Statement of Purpose

- i. In this application, HSC states that the group's main concern is "the effects of contamination from the Cornell-Dubilier Electronics, Inc. Site on the surrounding environment." However, the HSC has also submitted an application for the Woodbrook Road Dump Site, in which it is stated the HSC's main concern is "the effects of contamination from the Woodbrook Road Dump site on the surrounding environment."
- ii. In this application, under "Incorporation," HSC states that the group was incorporated for the purpose of addressing problems at the Cornell-Dubilier Electronics, Inc. site. However, in the Woodbrook Road Dump Site application it is stated that the HSC was incorporated for the purpose of addressing problems at the Woodbrook Road Dump site.
- iii. The "Purpose" in the Certificate of Incorporation is stated as "representing residents of South Plainfield, New Jersey who may be affected by Superfund sites within the Borough of South Plainfield."
- iv. Therefore, the application needs to be revised to be consistent with the "Purpose" stated in the Certificate of Incorporation, since the Certificate is the controlling document.

b. Membership

- i. The "Group Eligibility" section of the application states that there are 4 members in the group, while the "Group Issues and Objectives" section states that 20 members are affected by the site. However, the Certificate of Incorporation states that "The corporation shall have no members." This discrepancy needs to be clarified. The Certificate is the controlling document so the application needs to be revised to be consistent with the Certificate of Incorporation. However, see the related comments in ¶1.b.ii and ¶2.d., below.
- ii. The primary objective of the TAG is for a group to procure a technical advisor(s) to help understand the nature of the environmental and public health hazards at the site. Further, this technical assistance should contribute to the public's ability to participate in the decision making process by improving the public's understanding of overall conditions and activities at the site (from 40 CFR §40.4070). In this light, it has been our practice to encourage TAG group membership to be open to any and all members of the community who are affected by the site and who want to join the group. This group does not appear to have any mechanism for others to join. This needs to be clarified. See also ¶2.d., below.

c. By-Laws and Organizational Document

- i. The by-laws are incomplete, in that they do not specify the number of trustees (officers) in Article III, Section 8.
- ii. The "Consent of the Trustees in Lieu of Organization Meeting" refers to officers but elsewhere in the organizational documents these individuals are called trustees.
- iii. In paragraph 5 of the organizational document, the name of counsel is omitted.
- iv. Three trustees are identified by name in the "Consent of Trustees" but not their titles, even though the by-laws assign specific obligations to specific positions.
- v. The above inconsistencies and omissions need to be addressed.

d. State Approval of Incorporation

- i. The application says that a letter from the state approving the Certificate is enclosed; however, a copy was not included in the package.

e. Eligibility

- i. The regulations at 40 CFR §35.4045 discuss eligibility of previously-

incorporated applicant groups, in terms of their being able to demonstrate a history of involvement at the site, and in terms of their including "all individuals and groups that joined in applying for the TAG."

- ii. A group can demonstrate a history of involvement in several ways, including: documenting that members of the group have attended public meetings regarding the site or providing copies of agendas showing that the applicant group had held its own meeting(s) emphasizing site issues. EPA, however, retains full discretion to make a determination regarding an applicant's history of involvement at a site.
- iii. HSC needs to provide any additional information it may have showing a history of involvement at the site.
- iv. Based on the regulations cited above, EPA may determine that HSC needs to reincorporate, or needs to amend its incorporation documents for the purpose of addressing issues at this specific Superfund site, in order to be eligible to receive a TAG. HSC needs to indicate whether it would be willing to do this.

2. Other Eligibility Issues

- a. For the "Health, Economic, and Environmental Effects" question, additional information is needed as to how members of the group and the community it represents are affected by the site. The TAG regulations define "affected" as "subject to an actual or potential health, economic or environmental threat" and give examples of "affected parties" as people who live in areas near NPL facilities, whose health may be endangered by releases of hazardous substances at the facility, or whose economic interests are threatened or harmed. A description is needed of specifically how members of the HSC group are affected by the site.
- b. The "Consolidation/Representation" question needs to address the number and diversity included in the group's representation; HSC's response needs to be amplified by providing a description of the membership, including a description of the geographic area in which members reside and what segments of the affected community they represent.
- c. The "Information Sharing" section describes a Website, and describes providing copies of data to the South Plainfield Planning Board. However, the matching share includes preparation and distribution of a newsletter as well as meetings. The discrepancy between these two sections of the application needs to be clarified. [Note: since HSC has applied for two TAGs, if the group were to receive both TAGs, only that portion of the newsletter and/or website that was specifically applicable to the Cornell-Dubilier Electronics, Inc. site would be able to be counted as an in-kind contribution or charged to the TAG.]
- d. Since the group apparently does not have a mechanism for others to join (see ¶1.b.i. and ¶1.b.ii., above), additional information is needed about how the HSC

plans to distribute TAG information to any and all community members who are affected by the site and who wish to receive information.

3. Application Issues

- a. A certification is needed regarding the group's IRS status; if HSC is a 501(c)(4) corporation, a certification must be provided as to whether or not the group does any lobbying whatsoever. If the group do any lobbying, then they are not eligible to receive any Federal funds. The certification document enclosed may be used for this purpose.
- b. There is no evidence that the application was submitted for the required Intergovernmental Review (E.O. 12372 review). It will need to be submitted, and then the Intergovernmental Review agencies will have 60 days after receipt to review and comment.
- c. The Congressional Districts need to be filled in on Standard Form 424 of the application, and the application needs to be re-signed and resubmitted (see also ¶3.d., below).
- d. No start date or end date are proposed for the grant. However, based on the Tasks for the Technical Advisor section, the information on Page 2 of the Standard Form 424A, and other statements throughout the application, it appears that only one year is covered. The Standard Form 424 of the application needs to be revised to include a proposed start date and end date. If only one year is covered, additional information is needed (see ¶6.a., below).

4. Budget Issues

- a. The matching share does not provide enough funds; it needs to be 20% of total project costs (not 20% of the Federal share). Therefore, for \$50,000 Federal share, the matching share needs to be \$12,500 unless a waiver or partial waiver is requested and approved.
- b. The Federal share includes "Technical Advisor and Administrator" at \$75/hour for 613 hours, for a total of \$49,975. However, the "Proposed Schedule of Tasks and Costs for Technical Advisor, Year 1" also accounts for 613 hours for a total of \$49,975. Therefore, there is no time and no tasks allocated for an "Administrator." Further, \$75/hour seems high for paying an administrator. This needs to be clarified.
- c. The "Tasks for Technical Advisor" include "Review Health Assessment and Prepare Report - 100 hours." Please clarify whether or not the group plans to hire a Technical Advisor for public health issues.
- d. The proposed budget includes \$500 for Travel and Lodging. It needs to be clarified that this travel/lodging is not for group members, since group members' travel is an ineligible cost under the TAG.

- e. The proposed budget includes \$1,500 for "Accounting, Bookkeeping." The dollar amount per hour and proposed number of hours needs to be shown.
- f. The proposed includes \$1,025 for "Incorporation." This same amount is included for incorporation in the HSC's application for a TAG for the Woodbrook Road Dump site. If the group were to be awarded TAGs for both sites, this amount would need to be adjusted accordingly.
- g. The matching share includes \$800 for Meeting Space, for 4 meetings per year. The derivation of this number needs to be included; i.e., what the charge is based on, and how many years it covers. In addition, information is needed about what the meetings are, and how they fit in with the objectives of the TAG.
- h. The matching share includes \$2,200 for "Newsletter (writing, editing, distribution)". The amount of hours and dollar amount per hour proposed for the newsletter writing, editing, and distribution needs to be included (the amount per hour should not be the same for all of those activities); in addition, the number of newsletters and the proposed distribution needs to be included. Also, this item appears to be inconsistent with the "Information Sharing" section of the application (see ¶ 2.d.)
- i. The matching share includes \$7,000 for "Meetings of the Board of Directors" for 4 members, 25 meetings, 2 hours each, \$35/hour per member. Depending on the time period of the grant, this amount of meetings appears to be excessive. Also, in order to be counted as part of the matching share, the activities of the meetings need to be integral to the purpose of the TAG. [Note: This item with identical amounts also appears in the application for the Woodbrook Road Dump site TAG. If the group were to be awarded TAGs for both sites, this amount would need to be adjusted accordingly.]

5. Management/Administration Issues

- a. The "Administrative and Management Capabilities" section states that the Vice President, Secretary, and Treasurer will oversee and be responsible for all financial matters. Additional details and clarification is needed as to who will be responsible for what, their background and qualifications, and the recordkeeping systems that will be used.
- b. The "Resources for Project Completion" section lists volunteer services that will be used for the matching share. Additional details are needed (see comments on Budget). In addition, computer equipment is listed as part of the services. For any computer equipment (or other equipment), a usage rate will need to be proposed by HSC and approved by EPA, and time of use of the equipment will need to be tracked and documented according to that usage rate in order for it to be used as matching share.
- c. Since HSC has no past experience with Federal grants, additional details need to be provided about any projects that members of the group have been involved in completing, individually or as a group.

- d. HSC states that the group will maintain a general ledger to account for funds. It is stated that a Certified Public Accountant will oversee the financial reports of the grant funds. More details are needed about how the group will obtain the services of the CPA. Additional details are also needed about the recordkeeping and accounting procedures that the group will follow, both for the Federal and the matching shares. If the group has written financial and recordkeeping procedures, please submit a copy of them. In addition, since HSC has applied for another TAG at another site, details are needed as to how the group will insure that activities and financial records for each grant are tracked separately, including specific descriptions of the accounting for Federal share and matching share for each grant. Specific examples are needed of the systems or documents that will be used for this tracking, including the equivalent of a General Ledger for each separate grant, showing sources and uses of funds, expenditures and payments. A description is needed of how payments received from EPA for different grants will be identified (e.g., separate bank accounts if necessary).

6. Technical Advisor Statement of Work Issues

- a. Since the TAG is intended to address the entire scope of work at the site, the Technical Advisor scope of work needs to be revised. There are 3 operable units for this site and each operable unit is in a different phase of the Superfund process. Therefore, tasks specific for each operable unit should be included, along with the hours allocated for each task and a description of activities related to the task.
- b. HSC needs to identify what type of technical advisor(s) (e.g., their field of expertise) they envision hiring for each task.
- c. The "Tasks for Technical Advisor" table estimates 244 hours for the Feasibility Study, while the "Technical Advisor Work Plan" estimates 245 hours for the Feasibility Study. This discrepancy needs to be addressed.
- d. The "Tasks for Technical Advisor" table includes a task for "Review Health Assessment and Prepare Report" while this task is not included in the "Technical Advisor Work Plan." This discrepancy needs to be addressed.

In accordance with the TAG regulations (i.e., 40 CFR §35.4150, copy enclosed), the above information must be submitted to me within 90 days of the date of this letter. Therefore, the information must be submitted by April 19, 2004. If you do not submit this information by that date, EPA will have to return the application to you, readvertise the fact that a TAG is available at this site, and the award process will begin again. Please note that this due date is regulatory and CANNOT be extended. However, as you may be aware, another TAG application has been received for the Site, and if the other applicant responds to EPA's request for additional details with respect to its application, and HSC does not, the TAG will not be readvertised, and the likely result will be that the other applicant will receive the TAG, if appropriate.

Please let me know if you have any questions. You may call me at (212) 637-3420 or you may E-mail me at hemington.carol@epa.gov. If you have questions on the programmatic portions of the comments, you may call the Remedial Project Manager for the site, Pietro Mannino, at (212) 637-4395.

We look forward to receiving your response.

Sincerely,

ls

Carol A. Hemington, TAG Coordinator
EPA Region 2

Enclosures

bcc: C. Petersen/NJRB
D. Karlen/NJSUP
R. Baamonde/GCMB
J. Prince/NJRB
P. Brandt/CD
R. O'Neal/GCMB
P. Mannino/NJRB ✓
S. Flanagan/NJSUP
C. Echols/CD

Additional Certification Regarding Lobbying for
§501(c)(4) [IRS Code] Applicants

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

An organization described in §501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, contract, or loan.

501(c)(4) Organization:

Civic leagues or organization not organized for profit but operates exclusively for promotion of social welfare or local association of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

NOTE: All 501(c)(4) organizations submitting this application for Federal assistance must include a copy of the IRS determination of eligibility letter.

BY SIGNING AND/OR SUBMITTING THIS APPLICATION OR GRANT AGREEMENT, THE UNDERSIGNED CERTIFIES THAT THEY DO NOT ENGAGE IN LOBBYING ACTIVITIES.

Signature & Title of
Authorized Certifying Official

Dated

Applicant's Organization:

[Code of Federal Regulations]

[Title 40, Volume 1]

[Revised as of July 1, 2003]

From the U.S. Government Printing Office via GPO Access

[CITE: 40CFR35.4150]

TITLE 40--PROTECTION OF ENVIRONMENT
CHAPTER I--ENVIRONMENTAL PROTECTION AGENCY
PART 35--STATE AND LOCAL ASSISTANCE
Subpart M--Grants for Technical Assistance

Sec. 35.4150 What happens after my group submits its application to EPA?

(a) EPA will review your application and send you a letter containing written comments telling you what changes need to be made to the application to make it complete.

(b) Your group has 90 days from the date on the EPA letter to make the changes to your application and resubmit it to EPA.

(c) Once the 90-day period ends, EPA will begin the process to select a TAG recipient, or, in the case of a single applicant, if, EPA does not receive a complete application (meaning, an application that does not have the changes provided in the letter described in paragraph (b) of this section), then EPA will readvertise the fact that a TAG is available and the award process will begin again.